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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,796	01/10/2006	Ko Kaku	HO-P03144USO	7396
26271 7590 11/24/2008 FULBRIGHT & JAWORSKI, LLP 1301 MCKINNEY SUITE 5100 HOUSTON, TX 77010-3095				
EXAMINER				
BEKKER, KELLY JO				
ART UNIT		PAPER NUMBER		
1794				
MAIL DATE		DELIVERY MODE		
11/24/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/526,796

Applicant(s)

KAKU ET AL.

Examiner

Kelly Bekker

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/7/05 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/55/08)
- Paper No(s)/Mail Date 5/24/06
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Figure 2a reference character 2b and Figure 2b reference character 2c. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.

- (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 recites, "having a particle size (e.g. D(4,3))". It is unclear what the term "(e.g. D(4,3))" means. It is unclear if it designated a diameter or if it has some other meaning.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7, 8, 10, and 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Murphy et al (US 5853788).

Murphy et al (Murphy) a process for the preparation of a coffee product comprising the steps of grinding a roasted coffee (column 5 lines 58-63), externally cooling the coffee prior to or during compressing (column 7 lines 40-48), compressing the coffee in a pellet mill with a profiled roller to form a compressed body of coffee (column 6 all), crushing the compressed coffee (column 9 lines 14-17), and packaging the particulate coffee (column 8 lines 28-32). Murphy teaches that the press is a roller press as defined by applicant (specification page 2 lines 18-20) by teachings that apparatus compacts particulate materials into shaped products by compression against at least one roller (column 6 all). Murphy teaches that particle size of the particulate coffee is from 270-1100um (abstract). Murphy teaches that the tap density, i.e. the density of the agglomerated product, of the ground compressed tablet is 0.5-0.7gm/cc (column 7 lines 58-60). Regarding the density of the compressed coffee as recited in claim 7, since Murphy teaches of substantially the same processes of producing the pressed coffee as instantly claimed and since Murphy teaches that the compressed coffee crushed has substantially the same particle size as the instantly claimed crushed compressed coffee, one of ordinary skill in the art at the time the invention was made would expect that the compressed coffee taught by Murphy inherently have the same properties, including density, as instantly claimed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy et al (US 5853788).

Murphy teaches of a roasted ground compressed and crushed coffee product that is packaged in conventional coffee packages as discussed above. Murphy teaches

that the coffee product is brewed (Column 9 lines 35 and 36). Murphy is silent to the coffee as in a brewing capsule as recited in claims 9 and 15.

Regarding the coffee as in a brewing capsule, it would have been obvious to package the coffee product in a brewing capsule, so that the product could be easily brewed from the package. Since Murphy teaches that the coffee is packaged and brewed, the use of a conventional package, such as a brewing capsule, would have been within the routine determination of one of ordinary skill in the art.

Claims 6 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy et al (US 5853788) in view of Perry et al (ed.) (Perry's Chemical Engineers' Handbook 7th Edition pages 20-82 through 20-84).

Murphy teaches of a roasted ground compressed and crushed coffee product as discussed above. Murphy is silent to the roller press as comprising two pocketed rollers as recited in claim 6 and to the compressed tablets as not having opposed flat faces as recited in claim 11.

Perry et al (Perry) teaches that the roller press and pellet mill are both used to compress particulate materials together and form pellets (page 20-82 and 20-83). Perry teaches that the roller press can produce large quantities of materials at a low cost (page 20-82). Perry teaches that the roller press had two pellets with pockets, wherein the pockets formed the shape of the pellets (page 20-82).

Regarding using a roller press with two pocketed rollers as forming the compressed coffee tablets, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a roller press comprising two pocketed rollers as the pellet mill as taught by Murphy. One would have been motivated to do so in order to process large quantities of material at a low cost as taught by Perry.

Regarding the compressed tablets as not having opposed flat faces, it would have been obvious to one of ordinary skill in the art at the time the invention was made for the roller pockets to be in a rounded shape so that the pellets could be easily removed and pieces of the coffee would not get stuck in the corners of the pocket, thus forming compressed tablets with rounded corners, i.e. compressed tablets not having

opposed flat faces. To do so would be common sense and within the routine determination of one of ordinary skill in the art at the time the invention was made.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly Bekker whose telephone number is (571) 272-2739. The examiner can normally be reached on Monday through Friday 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on (571) 272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lien Tran/
Primary Examiner
Art Unit 1794

/Kelly Bekker/
Examiner
Art Unit 1794